



US EPA RECORDS CENTER REGION 5



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STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

WARREN SPANNAUS
ATTORNEY GENERAL

February 3, 1982

ADDRESS REPLY TO
ATTORNEY GENERAL'S OFFICE
POLLUTION CONTROL DIVISION
1935 WEST COUNTY ROAD B-2
ROSELVILLE, MN 55113
TELEPHONE (612) 296-7342

Erica Dolgin
Room 1507
Environmental Enforcement Section
Land and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Francis X. Hermann
Assistant U.S. Attorney
Room 234
110 South Fourth Street
Minneapolis, Minnesota 55401

Robert Leininger
Enforcement (EWPE)
EPA - Region V
230 S. Dearborn St.
Chicago, Illinois 60604

NON-RESPONSIVE

Re: U.S. v. Reilly Tar & Chemical Corporation
Confidential Status of USGS Data and Circulation of
Draft Reports

Dear Erica, Frank and Bob:

On February 2, Dennis Coyne and I attended a meeting of the USGS, Minnesota Department of Health, and Minnesota Pollution Control Agency. A main topic of the meeting was completion of a draft final report on the 1978-1980 USGS-MDH cooperative project. 1/ Marc Hult and Dan Gillies of USGS explained that an accurate and thorough report could be completed only by including data generated under the Fiscal Year 1981 interagency agreement between USGS and USEPA. Paragraph 5 of that agreement contains a confidentiality provision which USGS is concerned may restrict

1/ This report is referred to as the "Overall Evaluation Report" in the August 17, 1981, Reilly Tar log, page 15.

inclusion of data in the draft final report. 2/

To resolve this concern, protect expert work product, and facilitate exchange of technical information among USGS, EPA Enforcement, EPA Superfund, and the state agencies, I would like your agreement to apply the confidentiality provision and handle the draft final report in accord with the four steps outlined below. This treatment of the report is agreeable to Don Albin, District Chief of the USGS, and to the state agencies.

1. USGS may use in the draft all data on the St. Louis Park problem, including data generated under the interagency agreement.
2. When the draft final report is ready for USGS colleague review (about mid-March), a limited number of copies will be circulated for review to the state agencies, EPA Enforcement, EPA Superfund, and case attorneys.
3. The draft final report will be protected from public disclosure by EPA and the state agencies as expert work product and as protected nonpublic data under Minn. Stat. §§ 15.1694, 15.775, and 116.075. Summary information on the draft report may be provided for legislative inquiries.
4. USGS will confer with EPA Enforcement in regard to a publication date for the final report.

2/ The confidentiality provision states:

Due to the litigation, it is mandatory that all information gathered pursuant to this Agreement be kept strictly confidential and discussed only among those directly involved in the work. In no event may the results of the PAH levels be discussed with or divulged to anyone other than the cooperators and U.S.G.S. technical staff directly involved in this study. All requests for information will be referred to U.S. EPA until the case is adjudicated, at which time the information will be available to everyone. Information is releasable only through the U.S. EPA case attorney, Robert Leininger, at (312) 353-2094.

Please give this matter your prompt attention so the USGS draft can be circulated as planned.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Steve Shakman', written in a cursive style.

STEPHEN SHAKMAN
Special Assistant
Attorney General

SS:mah

cc: Dennis Coyne
Lovell Richie
Roger DeRoos
Don Albin
Paul Bitter

RECEIVED
FEB 9 1982
ENFORCEMENT DIVISION
EPA-REGION V